

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JACK HARRIS,)	
)	
Plaintiff,)	4:06CV3017
)	
v.)	
)	
DOUG DILTZ, in his individual)	MEMORANDUM AND ORDER
and official capacity,)	
)	
Defendant.)	
)	

On October 29, 2008, the plaintiff, acting pro se, filed a letter stating "I would like to appeal the Judge decision about the trial I had for case 4:06cv3017." The letter further stated the plaintiff had contacted his appointed trial counsel and had told her he "would like to appeal the Court ruling." Filing No. [143](#). The plaintiff's letter asked the court to require plaintiff's appointed trial counsel to assist him in filing an appeal. The October 29, 2008 letter was interpreted by the undersigned presiding trial judge¹ as a notice of appeal.

The Clerk sent a letter to the Nebraska Department of Corrections requesting the defendant's inmate account statement on October 30, 2008. Filing No. [145](#). The account statement was received on November 6, 2008, (filing no. [147](#)), and based on that statement, the court ordered:

¹See filing no. [71](#), "Consent to Exercise of Jurisdiction by a United States Magistrate Judge and Order of Reference," and [28 U.S.C. § 636\(c\)](#).

[P]laintiff is granted leave to appeal in forma pauperis, and the clerk shall order the transcript to be prepared without cost to the plaintiff.

Filing No. [148](#).

The clerk submitted a notice of appeal to the Court of Appeals for the Eighth Circuit, with copies sent to the parties' trial counsel. Filing No. [149](#). The Eighth Circuit entered an appellate scheduling order on November 14, 2008, which required that the trial transcript be filed on or before December 24, 2008. Filing No. [150](#).

The clerk requested preparation of the appellate transcript on November 17, 2008, (filing no. [153](#)), and the transcript has now been prepared and filed. Based on the plaintiff's inmate account statement, the undersigned finds that the plaintiff is indigent. Accordingly, pursuant to paragraph III (A) of the [Amended Plans for Administration of the Federal Practice Fund and The Federal Practice Committee District of Nebraska \(July 15, 2008\)](#), the Federal Practice Fund may, with the approval of the Chief Judge, be used to pay the cost for preparation of the trial transcript.

IT THEREFORE HEREBY IS ORDERED: The clerk shall submit the court reporter's statement for preparation of the trial transcript to the Chief Judge for his consideration of whether payment should be made from the Federal Practice Fund.

DATED this 12th day of December, 2008.

BY THE COURT:

s/ *David L. Piester*

David L. Piester
United States Magistrate Judge